

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN ASSEMBLY MAY 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1116

Introduced by Assembly Member Hall

February 22, 2013

An act to amend Section 25600.5 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1116, as amended, Hall. Alcoholic beverages: licensees.

Existing provisions of the Alcoholic Beverage Control Act generally prohibit manufacturers, winegrowers, bottlers, importers, wholesalers, and others from performing certain activities, with specified exceptions. Existing law, until January 1, 2014, permits specified licensees, or any authorized agent of those persons to provide, free of charge, entertainment, food, and distilled spirits, wine, or nonalcoholic beverages to a limited number of consumers over 21 years of age at an invitation-only event, held on specified premises, in connection with the sale or distribution of wine or distilled spirits, as provided. *Existing law authorizes the Department of Alcoholic Beverage Control to impose a fee of up to \$200 on licensees conducting events pursuant to the above-described authorization, as provided.*

This bill would authorize the holding of these events on the premises of a licensed hotel, as defined, would expand the number of consumers that may attend these events, *would revise the conditions under which the event may be held*, *would establish the fee at \$200*, would revise requirements for providing the department with information regarding

these events, and would extend the repeal date for these provisions until January 1, 2018.

The Alcoholic Beverage Control Act provides that a violation of specified provisions of the act is punishable as a misdemeanor. This bill, by expanding the definition of an existing crime, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25600.5 of the Business and Professions
- 2 Code is amended to read:
- 3 25600.5. Notwithstanding any other provision of this division,
- 4 a manufacturer of distilled spirits, distilled spirits manufacturer's
- 5 agent, winegrower, rectifier, or distiller, or its authorized unlicensed
- 6 agent, may provide, free of charge, entertainment, food, and
- 7 distilled spirits, wine, or nonalcoholic beverages to consumers at
- 8 an invitation-only event in connection with the sale or distribution
- 9 of wine or distilled spirits, subject to the following conditions:
- 10 (a) No licensee, other than those specified in this section, may
- 11 conduct or participate in any portion of an event authorized by this
- 12 section. A licensee authorized to conduct an event pursuant to this
- 13 section shall not be precluded from doing so on the basis of holding
- 14 any other type of alcoholic beverage license.
- 15 (b) An event authorized by this section shall be conducted on
- 16 either the:
- 17 (1) Premises for which a caterer's ~~permit~~ authorization has been
- 18 issued, except that any event held on the premises of a licensed
- 19 winegrower shall not be authorized to provide any distilled spirits
- 20 other than brandy.
- 21 (2) Premises of a licensed hotel, except that any event held on
- 22 the premises of the licensed hotel be held in an area that is not
- 23 open to the general public. For purposes of this paragraph, "hotel"
- 24 means any hotel, motel, resort, bed and breakfast inn, or other

1 similar transient lodging establishment, but it does not include any
2 residential hotel as defined in Section 50519 of the Health and
3 Safety Code.

4 (c) Except as provided in paragraph (2) of subdivision (b), an
5 event authorized by this section shall not be conducted on premises
6 for which a permanent retail license has been issued.

7 (d) Except for fair market value payments authorized pursuant
8 to this section, a ~~licensed caterer~~ *retail licensee, including the*
9 *licensed caterer or the licensed hotel*, shall not receive, *nor shall*
10 *the licensee conducting the event give*, any other item of value or
11 benefit in connection with events authorized by this section.

12 (e) The person authorized by this section to provide, free of
13 charge, entertainment, food, and beverages shall be present during
14 the event.

15 (f) The person authorized by this section to provide, free of
16 charge, entertainment, food, and beverages shall have sole
17 responsibility for providing payment for the entertainment, food,
18 beverages, and rental fees at the event. Payments for entertainment,
19 food, beverages, and rental fees shall not exceed fair market value.
20 No other licensed person shall be authorized, under this section,
21 to provide any portion of these payments.

22 (g) Requests for attendance at the event shall be by invitation
23 sent to consumers over 21 years of age at a specific address via
24 mail or email, by telephone, or presented in person. Invitations or
25 other advertisements of the event shall not be disseminated by any
26 other means. Invitations shall not be sent by the authorized person
27 or their authorized unlicensed agent inviting all of the employees
28 of a retail licensee or a chain of retail licensees under common
29 ownership to an authorized event.

30 (h) Attendance at the event shall be limited to consumers who
31 receive and accept an invitation to the event. Invited consumers
32 may each invite one guest. All attendees shall be over 21 years of
33 age. The total number of consumers and their guests allowed at
34 any event authorized by this section shall not exceed 600 people.
35 Admittance to the event shall be controlled by a list containing the
36 names of consumers who accepted the invitation and their guests.
37 The persons identified in this section shall be responsible for
38 compliance.

1 (i) No premium, gift, free goods, or other thing of value may
2 be given away in connection with the event, except as authorized
3 by this division.

4 (j) The duration of any event authorized by this section shall
5 not exceed four hours.

6 (k) (1) ~~A~~ *Subject to paragraph (3), a person authorized to*
7 *conduct events pursuant to this section shall not conduct more than*
8 *12 events in a calendar year where the consumers and guests in*
9 *attendance exceed 100 people, and not more than 24 events in a*
10 *calendar year where the consumers and guests in attendance is 100*
11 *people or fewer.*

12 (2) The limitation on events authorized by this section shall be
13 by person, whether that person holds a single license or multiple
14 licenses. If a person holds multiple licenses, the limitation shall
15 be applied to the person holding the license, not by type of license.

16 ~~(l) In addition to any other information required by the~~
17 ~~department, the licensee authorized to conduct an event pursuant~~
18 ~~to this section shall provide the department with all of the following~~
19 ~~information:~~

20 (3) *A licensee authorized to conduct events pursuant to this*
21 *section shall not conduct more than two events in a calendar year*
22 *on the premises of any single licensed hotel or other licensed hotel*
23 *under the same or common ownership.*

24 (4) *The licensee conducting the event shall not advertise any*
25 *retail licensee. If the event is held on the premises of a retail*
26 *licensee as permitted by this section, the licensee conducting the*
27 *event may list the retailer's name and address in the invitation*
28 *and any related advertising for the sole purpose of identifying the*
29 *location of the event. The listing of the retailer's name and address*
30 *shall be the only reference to the retail licensee and shall be*
31 *relatively inconspicuous in relation to the invitation or*
32 *advertisement as a whole. Pictures or illustrations of the retailer's*
33 *premises, or laudatory references to the retailer, shall not be*
34 *permitted.*

35 (5) (A) *Other than as specifically authorized by this section,*
36 *alcoholic beverage promotions of any sort shall not be conducted*
37 *by any licensee in conjunction with an event held on the premises*
38 *of a retail licensee pursuant to this section. This restriction includes*
39 *any discounted drink specials offered by the retail licensee to*
40 *consumers.*

1 (B) For purposes of this paragraph, “in conjunction with”
2 means during an event and any period within 24 hours before and
3 24 hours following an event.

4 (6) A retail licensee shall conspicuously offer for sale alcoholic
5 beverages other than the products produced, distributed, bottled,
6 or otherwise offered for sale by the licensee conducting the event.

7 (l) At least 30 days prior to an event, the licensee, or its
8 authorized unlicensed agent, authorized to conduct the event shall
9 apply to the department for a permit authorizing the event. In
10 addition to any other information required by the department, the
11 licensee shall provide the department all of the following
12 information:

13 (1) The name of the company authorized to conduct the event.

14 (2) The number of people planned to be in attendance.

15 (3) The start and end times for the event.

16 (4) The location of the event.

17 (5) The name of the caterer, if required, obtaining the caterer’s
18 authorization for the event.

19 (m) All alcoholic beverages provided pursuant to this section
20 shall be purchased from the holder of the caterer’s permit or the
21 licensed hotel, as applicable.

22 (n) All alcoholic beverages served at an event authorized by
23 this section shall be served in accordance with Sections 25631 and
24 25632.

25 (o) No person authorized to conduct an event pursuant to this
26 section shall hold such an event at the same location more than
27 eight times in a calendar year.

28 (p) The person authorized to conduct an event under this section
29 may provide attendees at the event with a free ride home. The free
30 rides shall only constitute free ground transportation to attendees’
31 homes or to hotels or motels where attendees are staying.

32 (q) In addition to the prescribed fee imposed upon a licensed
33 caterer to conduct an event authorized by this section, ~~the~~
34 ~~department may also impose a fee upon a licensee authorized by~~
35 ~~this section to provide, free of charge, entertainment, food, and~~
36 ~~beverages at an authorized event. The fee shall be representative~~
37 ~~of the cost of administering and enforcing the provisions of this~~
38 ~~section, but shall not exceed two hundred dollars (\$200) per event.~~
39 *a fee of two hundred dollars (\$200) shall be collected by the*
40 *department from the licensee, or its authorized unlicensed agent,*

1 *authorized by this section to provide, free of charge, entertainment,*
2 *and beverages at an authorized event.*

3 *(r) All licensees involved in events held pursuant to this section*
4 *shall be responsible for compliance with this section, and with all*
5 *other provisions of this division in connection with these events,*
6 *and each may be subject to discipline for violation of this division.*

7 ~~(r)~~

8 *(s) The Legislature finds and declares both of the following:*

9 *(1) That it is necessary and proper to require a separation*
10 *between manufacturing interests, wholesale interests, and retail*
11 *interests in the production and distribution of alcoholic beverages*
12 *in order to prevent suppliers from dominating local markets through*
13 *vertical integration and to prevent excessive sales of alcoholic*
14 *beverages produced by overly aggressive marketing techniques.*

15 *(2) Any exception established by the Legislature to the general*
16 *prohibition against tied interests must be limited to the express*
17 *terms of the exception so as to not undermine the general*
18 *prohibitions.*

19 ~~(s)~~

20 *(t) This section shall remain in effect only until January 1, 2018,*
21 *and as of that date is repealed, unless a later enacted statute, that*
22 *is enacted before January 1, 2018, deletes or extends that date.*

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.